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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,993	02/14/2002	George C. Myers III		6637

7590

07/14/2004

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EXAMINER

WILLATT, STEPHANIE L

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/073,993	Applicant(s) MYERS, GEORGE C.	
	Examiner Stephanie L. Willatt	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 4-7,9,11 and 12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15,16,19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1,3,8,10 and 13 is/are rejected.
- 7) ☒ Claim(s) 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant stated that examiner overlooked claim 13 in the previous Office Action. Claim 13 has been examined in this Office Action.

Election/Restrictions

2. Applicant amended claim 8 to be generic. Examiner has examined claim 8 in this Office Action.

Claim Objections

3. Claims 17 and 18 are objected to because of the following informalities: claim 17 recites "a cylindrically shaped bristle brush" and claim 18 recites "a pin". Claim 15, from which claims 17 and 18 essentially depend, recites "means for holding hair to the tubular body portion". This "means for holding hair to the tubular body portion" is not designated a specific meaning in the specification. However, when reading the specification, one of ordinary skill in the art would readily understand that the "means for holding hair to the tubular body portion" is either the "bristle brush" or the "pin". Since claim 15 already recites a "means for holding hair to the tubular body portion", claims 17 and 18 should acknowledge that the "bristle brush" and the "pin" are the "means for holding hair to the tubular body portion". Without this acknowledgement, it would seem that the "bristle brush" and the "pin" are in addition to the "means for holding hair to the tubular body portion". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradish.

Bradish discloses a toy simulating the appearance of a monkey. The toy comprises a body portion (1) simulating a first part of the anatomy of the given animal. The body portion (1) has two ends and is adapted to have hair wrapped about it between the two ends, since the body portion (1) is capable of having hair wrapped about it. An animal head portion (nose and chin 3) is attached to one end of the body (1) and an animal hind portion (part where legs 5 and tail 17 meet) is attached to the other end of the body (1). A tail (17) comprising bendable wire is attached to the animal hind portion (page 2, lines 21-29). The body portion (1) comprises a spring that is covered with material (page 2, lines 29-34).

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6. Claims 1, 3, 8, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Stewart.

Stewart discloses a hair device simulating the appearance of a dog or cat, as shown in Figures 3-10. The toy comprises a body portion (10) simulating a first part of the anatomy of the given animal. The body portion (10) has two ends and is adapted to have hair wrapped about it between the two ends, since the body portion (10) is capable of having hair wrapped about it. One end of the toy simulates the head (11) of the animal and the other end of the toy simulates the hind end (where hind legs 16 meet the body 10) of the animal. A tail comprising bendable wire is attached to the animal hind portion. The head and hind are made of plastic, as discussed in column 3, lines 12-21.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bradish.

Bradish discloses the features discussed above, but does not disclose that the material covering the spring is mesh. It would have been obvious to one having ordinary skill in the art at the time the invention was made to cover the spring with

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mesh, since it is within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 3, 8, 10, and 13 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

10. Claims 15, 16, 19, and 20 are allowed. Note: Claim 15 properly invokes 35 U.S.C. 112, sixth paragraph. "Means for holding hair to the tubular body portion" is interpreted as meaning the bristle brush and the pin.

11. Claims 17 and 18 would be allowable if rewritten to overcome the objections set forth in this Office action.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pacza discloses a toy animal made from a coil spring. Kenly discloses a toy animal including bristle brushes located within a coiled wire (Figure 4). Schleich discloses a toy animal made of a flexible material. Corbett discloses a curler

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made of a coil spring covered in mesh, which includes ornamental hair attached to both ends.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is 703-305-6316. The examiner can normally be reached on M-F (8:30-6:00) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 703-308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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